

**REMARKS**

Favorable reconsideration of this application is respectfully requested.

New claim 24 being added, claims 1, 3-6, 8-11 and 14-24 are now pending in this application. Claims 19-23 are deemed withdrawn.

Claims 1, 3-6, 8-10, and 14-18 remain rejected under 35 U.S.C. §103(a) as being unpatentable over Schmitt in view of Scetbon. This rejection is respectfully traversed.

Claim 1 recites a textile support having a protected zone where the microporous structure is occluded, but only a portion of the *macroporous* texture is occluded and a portion of the macroporous texture remains un-occluded. The office action fails to set forth a prima facie case of obviousness in that these features are not even alleged to be shown in any of the applied references.

With respect to Schmitt, the office action does not allege that Schmitt discloses this feature. Rather, the office action states:

Schmitt discloses the size of the macropores may be modified. The applicant has failed to disclose occluding portions of the macroporous texture provides an advantage, is used for a particular purpose, or solves a stated problem, and it appears a prosthesis having a macroporous structure that is not occluded over the entire protected zone would perform equally well especially since the applicant indicates as such in the specification. Since one having ordinary skill in the art could have occluded portions of the macroporous structure and the applicant has not disclosed any benefit of doing so, such a modification would have been an obvious matter of design choice at the time of the invention.

The fact that Schmitt mentions regulating the size of the trellis pores does not mean Schmitt teaches or suggests to occlude those pores. Thus, in the Schmitt trellis, the macropores are not occluded in any portion of the trellis. Apparently recognizing this deficiency in Schmitt, the office action then states that “one having ordinary skill in the art *could have* occluded

portions of the macroporous structure". (Emphasis added.) Because no prior art is cited for this proposition, this is a classic case using impermissible hindsight to arrive at the claimed subject matter. The only basis for one skilled in the art to provide a protected zone where the microporous structure is occluded but only a portion of the macropores are occluded is the teaching to do so in Applicants' specification. Certainly the office action provides no citation to any prior art that would urge one skilled in the art to do so.

Scetbon fails to remedy the deficiencies of Schmitt. Scetbon does not relate to a textile structure where only a portion of the macroporous texture in a protected zone is occluded and a portion of the macroporous texture remains un-occluded. In Scetbon, either the textile is coated or it is not. There is no disclosure of occluding the microporous structure in a protected zone and occluding only a portion of the macropores in that protected zone (leaving other macropores un-occluded). Like Schmitt, therefore, Scetbon fails to disclose a textile structure that has a first portion where the macroporous texture is occluded and a second portion where the macroporous texture is not occluded. Thus, Scetbon cannot possibly cure this deficiency of Schmitt.

Accordingly, withdrawal of the rejections regarding claims 1, 3 through 6, 8 through 10 and 14 through 18 as recited above is respectfully requested.

Claim 11 was also rejected under 35 U.S.C. §103(a) as being unpatentable over Schmitt in view of Scetbon and further in view of EP 0774240 A1 to Landgrebe et al. (hereinafter referred simply to as "Landgrebe"). Claim 11 depends from claim 1 and therefore includes all the limitations of claim 1. This rejection is respectfully traversed.

As noted above, neither Schmitt nor Scetbon, taken alone or in any combination, render obvious claim 1 or any claim depending therefrom. Landgrebe does not, and is not cited in the office action as curing the above-noted deficiencies of Schmitt and Scetbon. Rather, Landgrebe

cited for the shape of the implant. Thus, Schmitt, Scetbon, nor Landgrebe, taken alone or in any combination, render claim 11 obvious and withdrawal of the rejection of claim 11 under 35 U.S.C. § 103(a) is respectfully requested.

New claim 24 relates to a three dimensional textile having a protected zone where the microporous structure is occluded, but only a portion of the macroporous texture is occluded and a portion of the macroporous texture remains un-occluded. None of the art applied in the office action mentions or relates to three dimensional textiles, let alone such textiles having a protected zone with the recited features. Accordingly, immediate allowance of claim 24 is respectfully requested.

In view of the foregoing, this application is believed to be in condition for allowance. Such early and favorable action is earnestly solicited.

Respectfully submitted,



Peter DeLuca  
Reg. No. 32,978  
Attorney for Applicant

***Carter, DeLuca, Farrell & Schmidt, LLP***  
445 Broad Hollow Road, Suite 420  
Melville, New York 11747  
Tel.: (631) 501-5700  
Fax: (631) 501-3526